

**AGENDA MEMO**

**CITY COUNCIL MEETING DATE: NOVEMBER 7, 2007**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: SUP-23111 - APPLICANT: DRAKE REAL ESTATE SERVICES  
- OWNER: CAP II-FARM/DURANGO, LLC**

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**\*\* CONDITIONS \*\***

The Planning Commission (4-2/ds, sd vote) and staff recommend DENIAL.

**Planning and Development**

1. Conformance to all Minimum Requirements under LVMC Title 19.04.050 for Retail Establishment with Accessory Package Liquor Off-sale use.
2. Conformance to the conditions for Site Development Plan Review (SDR-23107) if approved.
3. This approval shall be void two years from the date of final approval, unless a building permit has been issued for the principal building on the site. An Extension of Time may be filed for consideration by the City of Las Vegas.
4. Approval of this Special Use Permit does not constitute approval of a liquor license.
5. The sale of individual containers of any size of beer or wine coolers is prohibited. All such products shall remain in their original configurations as shipped by the manufacturer. Further, no repackaging of containers into groups smaller than the original shipping container size shall be permitted.
6. This business shall operate in conformance to Chapter 6.50 of the City of Las Vegas Municipal Code.
7. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

The project is a request for a Special Use Permit for a Retail Establishment with Accessory Package Liquor Off-sale adjacent to the east side of El Capitan Way, approximately 260 feet north of Durango Drive.

The companion Site Development Review (SDR-23107) and associated Variance (VAR-23108) for a General Retail (Grocery Store), are considered unacceptable at this location as the project will not conform with Title 19.08. Staff recommendation is for denial.

**BACKGROUND INFORMATION**

| <i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i> |   |
|--|---|
| 12/07/98   | The City Council approved the rezoning of the Town Center plan area (Z-0076-98) including this parcel. The Planning Commission recommended approval.  |
| 11/07/01   | The City Council approved the current version Town Center Development Standards (TCDS) Manual through Bill No. 2001-100. The TCDS details the uses permitted within Town Center and the development standards that will accomplish the vision of Town Center. |
| 10/23/03   | The Planning Commission abeyed, SDR #3191, the original site plan to its 12/04/03 meeting in order to include the full commercial development site in the application. This request was noticed to include the full site in the application.                  |
| 01/07/04   | The City Council approved Site Development Plan Review (SDR-3191) and a Waiver of Town Center Build-to-Line standards for a 29,120 square feet of retail space on five pad sites. Planning Commission and Staff recommended denial on 12/04/03.               |
| 01/22/04   | The Planning Commission approved a Tentative Map (TMP-3272) for a two-lot commercial subdivision on 4.91 acres. Staff recommended approval.   |
| 12/03/04   | Planning Staff administratively approved a Minor Amendment to an approved Site Development Plan Review (SDR-3191) to allow minor changes of building footprints and to allow 29,315 square feet of retail space on four pad sites.                            |
| 01/13/05   | The Planning Commission denied a Special Use Permit (SUP-5684) and a Site Development Plan Review (SDR-5681) for a proposed Restaurant with Drive-through. Staff had recommended approval.  |
| 01/27/05   | The Planning Commission accepted the applicant's request to Withdraw Without Prejudice Special Use Permit (SUP-5740) for a proposed Liquor Establishment (Tavern). Staff had recommended denial.  |

|  |   |
|--|---|
| 03/21/05   | Planning Staff administratively approved a minor amendment to an approved Site Development Plan Review (SDR-3191) to allow minor changes of building footprints and to allow 28,315 square feet of retail space on three pad sites.   |
| 10/11/07   | <p>The Planning Commission recommended denial of companion items VAR-23108, VAR-23109 and SDR-23107 concurrently with this application.</p> <p>The Planning Commission voted 6-0 to recommend DENIAL (PC Agenda Item #24/ja).</p>   |
| <b><i>Related Building Permits/Business Licenses</i></b> |   |
| NA   |   |
| <b><i>Pre-Application Meeting</i></b>                    |   |
| 05/31/07   | A Pre-Application meeting was held where Planning staff advised the applicant of Town Center Development Standards and Title 19.08 Commercial Development standards, landscape and parking requirements, and residential adjacency requirements.  |
| <b><i>Neighborhood Meeting</i></b>                       |   |
| 07/31/07   | <p>A Neighborhood Meeting was held and was attended by eight members of the public, two city staff representing Planning and Development and Council Ward 6, and two representatives of the applicant. Community members voiced the following concerns:</p> <ul style="list-style-type: none"> <li>• Hours of operation</li> <li>• Delivery schedule</li> <li>• Project lighting, landscaping, building height, and traffic circulation</li> <li>• Building setback from the residential property line</li> <li>• Signage</li> <li>• Building materials</li> <li>• Fencing</li> <li>• Liquor sales</li> <li>• Requested Variances and Waivers</li> <li>• Number of employees</li> </ul> |
| <b><i>Field Check</i></b>                                |   |
| 07/16/07   | A site visit was conducted and the project location is a partially developed lot located adjacent to existing commercial and residential development with access from El Capitan Way.   |

| Surrounding Property | Existing Land Use  | Planned Land Use   | Existing Zoning                     |
|----------------------|--|--|-------------------------------------|
| Subject Property     | Partially developed with asphalt driveway and Commercial Retail Building | SC- TC (Service Commercial Town Center) Special Land Use Designation | T-C (Town Center)                   |
| North                | Single-family Residential  | R-CL (Single Family Residential Compact Lot)                         | PCD (Planned Community Development) |
| South                | Vacant land  | SC- TC (Service Commercial Town Center) Special Land Use Designation | T-C (Town Center)                   |
| East                 | Existing Commercial Building   | SC- TC (Service Commercial Town Center) Special Land Use Designation | T-C (Town Center)                   |
| West                 | Vacant land  | SC- TC (Service Commercial Town Center) Special Land Use Designation | T-C (Town Center)                   |

| <i>Special Districts/Zones</i>                    | <i>Yes</i> | <i>No</i> | <i>Compliance</i> |
|---|------------|-----------|-------------------|
| <b>Special Area Plan</b>                          |            |           |                   |
| T-C Town Center District                          | X          |           | Y or N            |
| <b>Special Districts/Zones</b>                    | <b>Yes</b> | <b>No</b> | <b>Compliance</b> |
| <b>Special Purpose and Overlay Districts</b>      |            |           |                   |
| T-C Town Center District                          | X          |           | Y or N            |
| <b>Trails</b>                                     |            | X         | NA                |
| <b>Rural Preservation Overlay District</b>        |            | X         | NA                |
| <b>Development Impact Notification Assessment</b> |            | X         | NA                |
| <b>Project of Regional Significance</b>           |            | X         | NA                |

***The following Title 19.04 Special Use Permit Requirement  
For the proposed liquor use applies:***

| Special Use Conditions   | Compliance |
|--|------------|
| The liquor use shall not be located within 400 feet of a church, synagogue, school, child care facility for more than 12 children, or City park. | Yes        |

## ANALYSIS

The proposed Retail Establishment with Accessory Package Liquor Off-sale use will be operated within a proposed General Retail structure with companion requests (SDR-23107, VAR-23108) to be considered concurrently with this request and of which are recommended for denial. Although the proposed use conforms to the Special Use Requirements of Title 19.04, the associated Site Development inadequately addresses Title 19.08 with respect to Residential

Adjacency Standards therefore staff recommendation is denial of the Special Use Permit.

## FINDINGS

The following findings must be made for a Special Use Permit:

1. **“The proposed land use can be conducted in a manner that is harmonious and compatible with existing surrounding land uses, and with future surrounding land uses as projected by the General Plan.”**

The proposed Retail Establishment with Accessory Package Liquor Off-sale can be conducted in a harmonious and compatible manner with existing and future commercial development however the related Site Development (SDR-23107) and associated Variance (VAR-23108) are being recommended for denial as the proposal will not comply with the Residential Adjacency Standards of Title 19.08.

2. **“The subject site is physically suitable for the type and intensity of land use proposed.”**

The project site is capable of being developed as commercial use yet the square footage necessitates deviations from Title 19.08 to allow a building footprint that encroaches 37 feet into the required 87 foot Residential Adjacency Setback.

3. **“Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed use.”**

All streets and highway facilities adequately serve the project site and provide acceptable capacity to accommodate trips anticipated to be generated by the proposed use.

4. **“Approval of the Special Use Permit at the site in question will not be inconsistent with or compromise the public health, safety, and welfare or the overall objectives of the General Plan.”**

Human Health and Public Safety will not be compromised with implementation of the proposed use as regular inspection by local and state authorities will be performed.

**5. The use meets all of the applicable conditions per Title 19.04.**

The proposed use meets all Special Use Conditions of Title 19.04.

**PLANNING COMMISSION ACTION**

The Planning Commission discussed adding a condition to disallow distilled spirits.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 10

**ASSEMBLY DISTRICT** 13

**SENATE DISTRICT** 9

**NOTICES MAILED** 725 by City Clerk

**APPROVALS** 2

**PROTESTS** 13